IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION Nos 1159,
1163, 1164, 1165 and 1166 of 2001

With

CIVIL APPLICATIONS NOS.1574,
1543, 1573, 1572 and 1575 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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VADODARA DISTRICT PANCHAYAT

Versus

MAYUR GOVINDBHAI SHAH

Appearance:

MR HS MUNSHAW for Petitioners

MR DIPAK R DAVE for Respondents

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 10/04/2002

COMMON ORAL JUDGEMENT

1. All these Civil Revision Applications arise from the order passed by the learned Extra Assistant Judge, Vadodara dated 31.8.2001 in C.M.A.Nos.182 to 186 of 2001 filed by the petitioners - defendants, wherein the learned appellate court has while examining the order under challenge passed by the learned Civil Judge (S.D.), Vadodara allowing the application Exh. 5 filed by the respondents-plaintiffs, confirmed the order of the learned trial Judge and dismissed all the Appeals. While issuing rule in each matter, this court has granted interim relief in terms of prayer clause 8(C) as per order dated 5.10.2001. After the rule is served on the respondents plaintiffs, the respondents - plaintiffs had taken out application in each mater praying for vacating of the stay granted earlier ex parte by the High Court and while filing the said applications, the original plaintiffs have placed reliance upon various documents, which were considered by the learned trial Court while examining the case for injunction sought for by the plaintiffs, which was granted earlier and confirmed by the learned appellate court. Accordingly in each application the prayer for vacating of the interim relief granted ex parte was made and the Applications for vacating interim relief were notified before me earlier and considering the submission made before me by the counsel appearing in the matters, I had notified all these Revision Applications. The request was made by Mr.Munshaw, who appeared on behalf of the petitioners in Revision Applications, to enable him to get the instructions from the authority in respect of the subject matter of the suit and accordingly I have heard Mr.Munshaw for the petitioners at length and during hearing he has taken me through the orders under challenge passed by the learned trial Judge as well as by the appellate court.

2. It is not in dispute that pursuant to the advertisement issued by the authority in the year 1998 the original plaintiffs had applied for training to be held by the authority as per the scheme and it is also not in dispute that the plaintiffs were selected for training and the respondent - authority has informed the plaintiffs to remain present before the authority and they were selected for training for one year and the plaintiffs were informed that they are required to comply with the prescribed conditions as well as they are also liable to execute bond in the prescribed form and they will be paid Rs.125/- by way of stipend. However, it is the case of the plaintiffs that though they were selected for training, which was for the year 1998, they were not sent for training and accordingly the suit was filed

before the learned trial Judge for declaration and they have also taken out Application Exh.5 under Order 39 Rule 1 and Section 151 of the C.P.C. praying that till the select list earlier published is not exhausted, the authority and their agents be restrained from holding any interview for male candidates and from proceeding with the selection of such candidate. Accordingly they prayed that as the plaintiffs were selected earlier in 1998 and their list is still not exhausted, the authority be restrained from processing any selection and from calling for interview in respect of the advertisement issued on 2.7.2001 in daily news paper "Sandesh" and the learned trial Judge below the said application has while issuing show cause notice to the defendant, which was made returnable on 30.7.2001, directed the authority to maintain status quo and the learned trial Judge after hearing the Application has allowed the Application Exh.5.

3. Being aggrieved by the said orders passed by the learned trial Judge, petitioner - defendant had preferred Appeals before the appellate court raising the contention that though the plaintiffs were selected in an interview for training under the Scheme and letters were issued informing the plaintiffs to remain present before the concerned authority for the purpose of sending them for training, however the plaintiffs could not be sent for training, though they were selected, in view of the fact that only limited candidates were to be sent for training and it is the case of the defendant that so far as Vadodara Panchayat is concerned only 18 candidates were to be sent and accordingly out of the selected candidates, as per the merit and roster, candidates were sent for training and the plaintiffs were not entitled for seeking any relief and the defendant has prayed that the order passed by the learned trial Judge be set aside and injunction be vacated. The appellate court has, after considering the contentions raised before him, dismissed all the Appeals by observing that the order passed by the learned trial Judge deserves to be confirmed and accordingly confirmed the orders passed by the learned trial Judge by a common order. It is this order passed by the appellate court which is under challenge in these Revision Applications and while issuing rule, interim relief was granted as prayed for by the petitioners in terms of prayer clause 8(C).

4. Mr.Munshaw, while arguing the matter, has placed reliance upon various documents and it is the case of the petitioner that once the candidates were selected for training, it does not mean that automatically candidates

are to be considered for appointment and as found from the record, though 20 candidates were to be sent for training, however, as per the decision of the authority only 10 candidates were to be sent for training and while sending 10 candidates, the authority has considered the merits of each candidate as well as maintained the roster. Out of the selected candidates 10 candidates were sent and accordingly remaining candidates were informed. It is his submission that it is only due to administrative reason that though the plaintiffs were selected in an interview, they could not be sent for training. Mr. Munshaw, appearing for the petitioner, has taken me through the orders passed below Application Exh.5 as well as the order passed by the appellate court as well as the Notification issued by the Government and the advertisement and contended that in view of the administrative ground, though the plaintiffs were selected in an interview, they could not be sent for training and further that pursuant to the subsequent advertisement for training for the year 2001-2002, wherein 18 candidates were to be sent, however, only 13 candidates were sent for training and those candidates will be completing their training by the end of this month. He accordingly submitted that the training programme is arranged as per the Scheme and the case of the plaintiffs is in respect of seeking injunction on the ground that they are selected for training pursuant to the advertisement issued earlier and, accordingly, no other candidates to be sent for training, who were interviewed pursuant to the subsequent advertisement issued by the authority. It is unfortunate that because of the stay operating against the respondents plaintiffs, they could not take training and even while considering these Revision Applications, it is not possible for this court to send the plaintiffs for training on the basis of their selection pursuance to the advertisement for the training for the year 1998-99 and it could not be possible for this court to give any relief to the respondents plaintiffs at this stage, in view of the fact that the candidates, who have been taking training, will be completing their training by end of this month.

5. Accordingly without expressing anything on the contentions raised before me in these Revision Applications as well as without expressing anything in respect of the order under challenge, it will be just and proper to direct the learned trial Judge to take each Suit on hand and decide the same in accordance with law. Counsel appearing in the matter has also assured this court that the advocates will co-operate with the trial court to enable the learned trial Judge to dispose of the

Suits in accordance with law by 31.7.2002 and it will be just and proper that the trial court shall examine the case of the plaintiffs in respect of the relief sought for by the plaintiffs and further consider that, by virtue of the selection of the plaintiffs in an interview, whether the plaintiffs are entitled to be sent for training for a subsequent year. If the authority is required to invite applications under the Scheme for training hereafter, it shall also consider the fact that the plaintiffs' Suits are pending, which are to be disposed of by 31.7.2002 and while sending the candidates for training, the authority will keep five seats vacant because if the plaintiffs can establish their case and if the plaintiffs succeed in the Suit, they will be able to attend the training course.

6. Accordingly all these Revision Applications are disposed of. Rule in each matter is accordingly discharged. Interim relief, in each matter, is also vacated. However, there will be no order as to costs.

7. All the Civil Applications being Civil Applications Nos.1574, 1543, 1573, 1572 and 1575 of 2002 does not survive and the same are disposed of accordingly.

Registry is directed to send the writ forthwith to the trail court.

(D.K.Trivedi,J)

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